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9 UNITED STATES DISTRICT COURT
10 EASTERN DISTRICT OF CALIFORNIA
11

12 JAMES J. DAVIS,) No. 2:20-1197-CKD
)
13 Plaintiff,) STIPULATION & ORDER FOR THE
) AWARD AND PAYMENT OF
14 v.) ATTORNEY FEES AND EXPENSES
) PURSUANT TO THE EQUAL ACCESS
15 KILOLO KIJAKAZI,) TO JUSTICE ACT, 28 U.S.C. § 2412(d),
16 Commissioner of Social Security,) AND COSTS PURSUANT TO 28 U.S.C. §
) 1920
17 Defendant.)
18)

19
20 IT IS HEREBY STIPULATED by and between the parties through their undersigned
21 counsel, subject to the approval of the Court, that Plaintiff be awarded attorney fees in the amount
22 of six thousand three hundred eighty-nine dollars and twenty three cents (\$6,389.23) under the
23 Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), and no costs under 28 U.S.C. § 1920.
24 This amount represents compensation for all legal services rendered on behalf of Plaintiff by
25 counsel in connection with this civil action, in accordance with 28 U.S.C. §§ 1920; 2412(d).
26 Accordingly, should this Court award fees and expenses under EAJA pursuant to this stipulation,
27 Plaintiff's motion for attorney fees (ECF 31) would be moot.
28

1 After the Court issues an order for EAJA fees to Plaintiff, the government will consider
2 the matter of Plaintiff's assignment of EAJA fees to Jesse Kaplan. Pursuant to *Astrue v.*
3 *Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability to honor the
4 assignment will depend on whether the fees are subject to any offset allowed under the United
5 States Department of the Treasury's Offset Program. After the order for EAJA fees is entered,
6 the government will determine whether they are subject to any offset.

7 Fees shall be made payable to Plaintiff, but if the Department of the Treasury
8 determines that Plaintiff does not owe a federal debt, then the government shall cause the
9 payment of fees, expenses and costs to be made directly to Jesse Kaplan, pursuant to the
10 assignment executed by Plaintiff. Any payments made shall be delivered to Jesse Kaplan.

11 This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA
12 attorney fees, and does not constitute an admission of liability on the part of Defendant under
13 the EAJA or otherwise. Payment of the agreed amount shall constitute a complete release
14 from, and bar to, any and all claims that Plaintiff and/or Jesse Kaplan, including his firm, may
15 have relating to EAJA attorney fees in connection with this action.

16 This award is without prejudice to the rights of Jesse Kaplan to seek Social Security
17 Act attorney fees under 42 U.S.C. § 406(b), subject to the savings clause provisions of the
18 EAJA.

19 Respectfully submitted,

20 Dated: January 10, 2022

21
22 By: /s/ Jesse Kaplan*
JESSE KAPLAN
23 * By email authorization on 1/7/22
Attorneys for Plaintiff
24

25 Dated: January 10, 2022

PHILLIP A. TALBERT
United States Attorney

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27 By: /s/ Marcelo Illarmo
MARCELO ILLARMO
28 Special Assistant United States Attorney

1 Based upon the parties' Stipulation for the Award and Payment of Equal Access to
2 Justice Act Fees, Costs, and Expenses, **IT IS ORDERED** that fees and expenses in the amount
3 of \$6,389.23 as authorized by 28 U.S.C. § 2412, and costs in the amount of \$0.00 as authorized
4 by 28 U.S.C. § 1920, be awarded subject to the terms of the Stipulation. Furthermore, Plaintiff's
5 motion for attorney fees (ECF No. 31) is denied as moot.

6 Dated: January 12, 2022

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CAROLYN K. DELANEY
9 UNITED STATES MAGISTRATE JUDGE
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